IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2085 of 1996

GANGA RAM
V/S
STATE & ORS

Mr. MR SINGHVI, Mr. SUNIL BHANDARI, for the appellant / petitioner

Mr. RAVI BHANSALI, Mr. SUNIL RENWA, for the respondent

Date of Order : 5.11.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

By this petition, the petitioner seeks to challenge Annex.4, whereby the petitioner's bid was not accepted, and the amount deposited was refunded.

The facts of the case are, that the respondent Samiti issued advertisement Annexsure-1 for giving on contract, for a period of three years, 4 kiosks, by auction. The terms and conditions of the advertisement included deposit of security amount to the extent of Rs.10,000/-. Highest bid was to be accepted, however according to Clause 4(क) the right was reserved with the Samiti, to reject even the highest bid, if the highest bid is not found to be of a reasonable amount. Then according

to Clause 4(ख) 1/4 of the highest bid amount was to be deposited by the bidder on the spot, otherwise the security amount was to be forfeited. The case of the petitioner is, that he gave his bid for kiosk no.1, auction was held on 24.6.1996, wherein he gave the highest bid, and deposited 1/4 amount, which was received vide receipt Annex.3. Then it is pleaded, that the auction was knocked down in his favour, and the amount was deposited, which was accepted by the Samiti, but surprisingly, the petitioner received communication Annex.4, conveying that his bid has not been accepted by the administrator, and the same has been cancelled, and the amount deposited by the petitioner, being Rs.18,900/- was refunded to him by cheque dated 29.6.96. According to the petitioner, before passing this order, no opportunity of hearing was given. Then it is contended that reserve price of stall was only Rs.17,000/-, while the petitioner offered Rs.32,000/-, which is much more than the reserve price, and there is no lawful reason for not accepting the highest bid. It is also contended, that the bid was finally accepted, and the discretion of the Mandi Samiti stood exhausted with the receipt of the amount, inasmuch as, no power was left with the Samiti to reject the bid, and the administrator had no power to intervene, and interfere with the auction. Inter-alia with this, it is prayed, that the order Annex.4 and 5 be quashed.

A reply has been filed, inter-alia contending,

that Rs.10,000/- was deposited by way of security, and Rs.8900/- was required to be deposited by the petitioner on the spot, being one fourth of the highest bid amount, but then, thereby it cannot be said, that the bid was accepted, leaving no discretion with the administrator to reject the bid. It was contended that in accordance to the conditions contained in Annex.1, the administrator rejected the bid, as the amount for which the bid was given by the petitioner was not found to be reasonable. It was contended that the stipulation does not mean, that the bid can be rejected only if it is offered for an amount below the reserve price. Thus, the action of the Samiti is sought to be supported.

This writ was filed on 6.7.1996, and vide order dated 11.7.96 show cause notices have been issued for final disposal at the admission stage, and the writ was admitted on 4.8.98. While issuing show cause notice interim stay was granted to the effect, that meanwhile in pursuance of the advertisement/notification dated 29.6.96, Annex.5, the auction of item No.2, scheduled to be held on 15.7.96, shall not be held till further orders of this Court. Annex.5 is the advertisement issued by the Samiti, scheduling the auction to be held on 15.7.96.

Arguing the writ petition the learned counsel for the parties have reiterated the contentions, as raised in

the pleadings.

I have considered the submissions, and find, that over and above what has been stated by either side, from perusal of Annex.1, it is clear, that the auction was to be held for a period of 3 years only, and there is no condition in Annex.1 entitling the grantee to have it renewed. In that view of the matter, since the period of three years have already expired, in my view, the writ petition remains only academic, as now in the year 2007, even if the contentions raised by the petitioner were to be considered, he cannot be allowed to be granted contract to run the kiosk for three years now. It is a different story, that according to the terms of Annex.1, the respondents had the right to reject the bid, if even if the highest bid was found to be not reasonable, and even according to the petitioner, except receiving the 1/4 amount of the bid on the spot itself, there is no other overt action on the part of the respondents, showing the bid to have been accepted, so as to entitle the petitioner to contend, that the power of the Samiti to pass the order Annex.4 stood exhausted. In that view of the matter, I do not find any sufficient ground now to interfere in favour of the petitioner in the year 2007. The writ petition is, therefore, dismissed.

It is informed by learned counsel for the petitioner, that the petitioner was sent cheque vide

Annex.4. However, the period of that cheque has already expired. Keeping this in mind, the respondent is directed to even now refund the amount forthwith. It is also directed that if the amount is not refunded within a period of four weeks from today, the amount will carry interest @ 10% per annum, to accrue from today onwards.

(N P GUPTA),J.

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